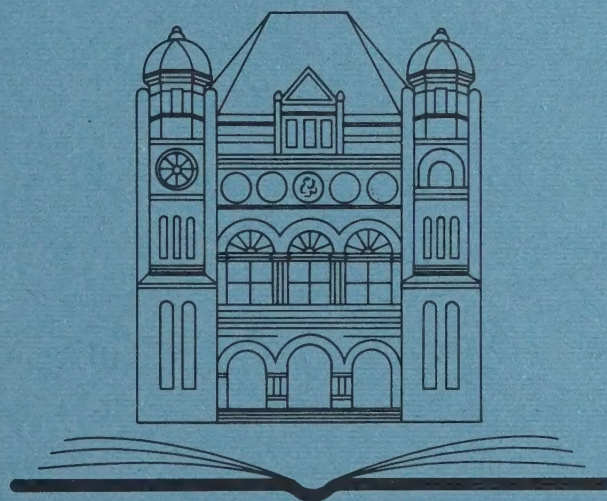


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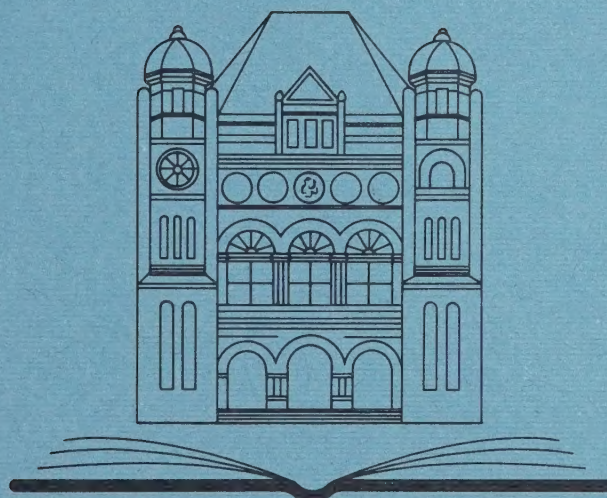
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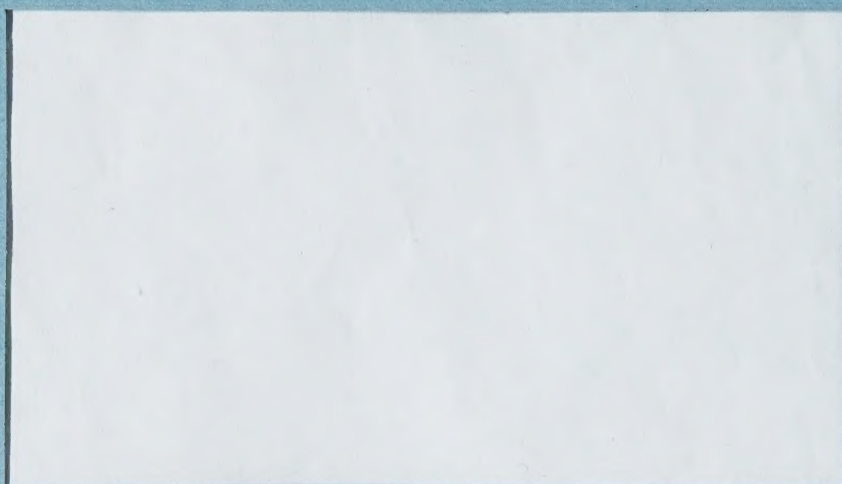
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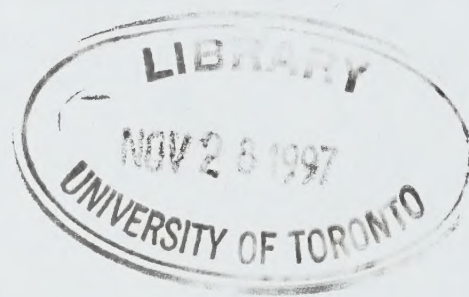
LABOUR MOBILITY IN THE CONSTRUCTION INDUSTRY BETWEEN ONTARIO AND QUÉBEC

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Research Officer

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INTRODUCTION

Construction has long been unique, both as an industry and in terms of the statutory regime that governs its operation and unionization. Key features of the construction industry include: workers specialize along craft lines; work and employees move from job site to job site, in marked contrast to the manufacturing and service sectors; projects are usually short-term; and employees work for many employers and experience many periods of unemployment over the course of their working lives. All of this creates a specific and distinctive framework for labour relations in the industry.

The rules, regulations and laws and the extent of unionization in the construction industry also vary by province.

BACKGROUND: PREVIOUS BARRIERS TO LABOUR MOBILITY

In comparison to Ontario, the construction industry in Québec is heavily regulated. The key component of the legislative framework specific to the industry is the *Building Act*, the purpose of which is to ensure the quality of construction work and the safety of persons. In pursuit of these objectives, the act also governs the professional qualifications of building contractors, entrusting the Régie du bâtiment du Québec with a number of functions.

The industry is also governed by the *Act respecting labour relations, vocational training and manpower management in the constructing industry (R-20)*, as amended by Bill 142 and by Bill 46 in 1995.

Québec contractors must hold a licence from the Régie du bâtiment du Québec, and Québec construction workers must hold either the appropriate competency certificate or an exemption provided for in the regulations from the Commission de la construction du Québec (CCQ), the lead agency responsible for monitoring the movement of construction workers in the province and providing placement services.

Construction workers must obtain a 'competency card' from the CCQ and be recognized in their specific trade by the Centre Travail Québec. Local residents received a high priority in this system while out-of-province workers generally did not qualify for competency cards unless they possessed specialized skills that were not available in Québec.

Cards issued to non-Québec workers were – and still are – valid only until the completion of the single project the workers were hired for. The competency cards issued to Québec residents last longer than the non-resident version and are not tied to work on a specific site. All construction workers in Québec (including non-residents) must join a construction trade union. Once a non-

resident is a union member, however, he/she is eligible for the same benefits and protection that the union offers to Québec members.

An additional regulation has also proven to be a significant barrier to external trades workers. *Règlement sur la formation et la qualification professionnelles de la main d'oeuvre de l'industrie de la construction* was created in the late 1970s to “civilize relations” between unions and business. The regulation requires Québec employers to give priority to workers from specified regions within the province for regional development purposes. Implementation has had a discriminatory effect against not only out-of-region workers, but also out-of-province workers.

THE ONTARIO-QUÉBEC AGREEMENT ON THE MUTUAL RECOGNITION OF CONSTRUCTION WORKERS' QUALIFICATIONS, SKILLS, AND WORK EXPERIENCE

In response to threats of trade retaliation from Ontario, the government of Québec agreed in December 1993 to a bilateral agreement to eliminate barriers to labour mobility. In May 1994 the *Ontario-Québec Agreement on the Mutual Recognition of Construction Workers' Qualifications, Skills and Work Experience* was signed.

Under the Agreement, the two provinces agreed: “to ensure that Ontario workers no longer faced residency requirements when seeking construction in Québec ..., to recognize each others' systems for assessing the qualifications, skills and experience of construction workers ... [and] ... to recognize equivalencies of Ontario and Québec health and safety training programs.”¹

Recognition of Qualifications, Skills and Work Experience

The Agreement recognizes four basic types of trades: those that require compulsory certification in both provinces; trades subject to voluntary certification; trades for which no equivalency in both provinces could be determined; and other labourers.

There were six trades designated under compulsory certification: electrician, sheet metal worker, refrigeration and air conditioning, mobile crane operator, plumber, and steam-fitter.² Ontario workers with the trades listed above can apply to the CCQ for an exemption from the requirement to hold a Québec apprenticeship certificate provided the following criteria are met: “present proof of employment, duly validated by his or her employer, which specifies the approximate duration of the work to be performed in Québec; have worked

¹ Ontario, Office of the Premier, *News Release*, 3 May 1994.

² Ontario, *Ontario-Québec Agreement on the Mutual Recognition of Construction Workers' Qualifications, Skills and Work Experience*, 3 May 1994, pp. 5-6.

1,500 hours or more for the same employer in the construction industry during the first 24 of the 26 months preceding the application for recognition.”³

There were 16 trades designated under the voluntary certification section: brick and stone mason, terrazzo, tile and marble craft, general carpenter, construction boilermaker, cement mason, roofer, reinforcing rod-worker, construction millwright, heavy duty equipment mechanic, sprinkler and fire protection installer, ironworker, painter and decorator, plasterer, floor covering installer, drywall, acoustic and lathing applicator, and ironworker.⁴ Ontario workers in the trades listed under the voluntary certification section can apply to the CCQ for an exemption from the requirement to hold a Québec apprenticeship certificate provided they possess the same qualifying criteria as workers requiring compulsory certification.

Ontario trades for which an equivalency in Québec could not be determined include: insulator, elevator mechanic, glazier and metal mechanic, oil burner mechanic and tower crane operator. Workers in these unclassified trades “may present their qualifications and their experience and obtain a Journeyperson’s Competency Certificate from the CCQ if they fulfill the regulatory requirements of the Commission and if they pass the certification examination required by the Commission for the trade in question.”⁵

Finally, other Ontario labourers may obtain work on Québec construction projects provided they:

- are 16 years of age;
- present proof of employment, duly validated by his/her employer, which specifies the approximate length of work to be performed in Québec;
- have worked 750 or more hours for the same employer in the construction industry during the first 24 of the 26 months preceding the application.⁶

Health, Safety and Training

This section of the Agreement stipulates that each province recognizes equivalent courses in health and safety training required by workers.

Administration of the Agreement: Monitoring and Enforcement

On the Ontario side, the Ministry of Labour oversees the implementation, monitoring and enforcement of the Agreement.

The day-to-day workings of administering the Agreement is handled by the Bilateral Coordinating Committee established by the Agreement. “The

³ Ibid., p. 6.

⁴ Ibid., p. 8.

⁵ Ibid., p. 11.

⁶ Ibid., p. 12.

Coordinating Committee will meet as required, and at least twice a year, beginning in June 1994, in order to verify the implementation of this Agreement, to follow development of the present Agreement and to deal with any questions relevant to it.”⁷ The Coordinating Committee is also responsible for preparing an annual report which reviews and evaluates the working of the Agreement.

An industry-government liaison position was created with responsibilities for generating a common understanding of the Agreement and for calling attention to any difficulties in implementation.

The two governments created a flexible procedure for handling disputes. Complaints are first assigned to a local contact person. If the complaint cannot be resolved at the local level it is forwarded to the Coordinating Committee. The Committee has two weeks to decide how to proceed with the complaint. If the Committee determines that government rectification is necessary, then the challenged government has three weeks to respond. If, however, the Committee is unable to decide how to proceed, then the matter is referred to the ministers responsible in Ontario and Québec.

RECENT DEVELOPMENTS

In response to a growing number of complaints from the Ontario construction industry, primarily located along the Québec border, that the agreement on labour mobility was not working, Ontario began discussions with Québec in 1996. These discussions culminated on December 6, 1996 with an agreement-in-principle between the two provinces regarding construction labour mobility.

Under the proposed agreement, Québec will:

- Permanently exempt Ontario contractors from Québec competency exams when straightforward conditions establishing the contractor’s experience and evidence of work are met;
- Recognize at face value compulsory and voluntary trades listed in the agreement and for which equivalency has been established;
- Eliminate the duplicate certification procedure for Ontario construction workers;
- Eliminate the \$100 administrative fee procedure charged to Ontario construction workers;
- Allow those Ontario construction workers with certificates of apprenticeship and provisional certificates to work in Québec;
- Give broader recognition to 12 additional construction jobs;

⁷ Ibid., p. 17.

- Make all regulations, forms, interpretive guides and examinations available in English.⁸

In November 1996, the Government of Québec introduced legislation designed to effect these points.

The Governments of Ontario and Québec formally endorsed the agreement-in-principle on March 7, 1997.

⁸ Ontario, Ministry of Labour, "Ontario Reaches Agreement with Québec on Construction Labour Mobility," *News Release*, 10 October 1996.

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CONCLUSION

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